BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

In the Matter of W.P.No. 2871 /2003

PETITIONER : Man Singh Sahu ,aged about 41 years S/o. Late Sukhlal Sahu, Sarpanch - Village Panchayat, Otebandh, R/o. Vill- Otebandh, Vikas Khand-Dhamda, Distt. - Durg (C.G.)

P. R. No. 2223/03
Presented by Shri. Upendra Gandharva
dated 11/09/03

VERSUS

RESPONDENTS

1. State of Chhattisgarh Through Secretary, Department of Panchayat, Raipur (C.G.)
2. District Collector, Distt. - Durg (C.G.)
3. Sub Divisional Officer Distt. - Durg (C.G.)
4. Chief Executive Officer, Janpad Panchayat Dhamda,Distt. - Durg (C.G.)
5. Lekha Ram Verma (Panch) Gram Panchayat ,Vill- Otebandh, Vikas Khand-Dhamda, Distt. - Durg (C.G.)
6. Secretary, Gram Panchayat ,Vill- Otebandh, Vikas Khand-Dhamda, Distt. - Durg (C.G.)
7. Deputy Director Panchayat & Femily Wellfair department District Durg

CERTIFIED COPY
11/9/03
CLERK TO A.G. BILASPUR

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF MANDAMUS, CERTIORARI QUO WARRANTO.

The petitioner respectfully begs to submit as under :-

1. **PARTICULARS ABOUT THE PETITIONER :-**
   The details of the petioner furnished in the cause title..

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XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP. 2871/03 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	16-9-2003 Shri Arun Kochar, counsel for the petitioner. By this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner challenged the show cause notice dated 5-9-2003 passed by the respondent No.3 in Panchayat Case No. 1250/Pan./02, arising out of the order dated 5-9-2003. The petitioner's petition is that he is challenging the show cause notice dated 5-9-2003 issued by the respondent No.3 and raising the questions of law as to whether respondent No.3 and Panchayat proceeding were correct in issuing show cause notice of no confidence motion against the petitioner. According to Section 21(1) of the Panchayat Act for no confidence motion there shall be meeting held after 15 day's from the date of notice, but date of notice of the no confidence motion issued on 5-9-2003 passed by respondent No.3 and date of no confidence meeting is on 16-9-2003 within 15 days not after 15 days. It is a clear violation of Section 21(3) of the Panchayat Raj Adhiniyam. According to the provisions of Rule 3(3) of the Panchayat Rules, 1994, for no confidence motion, notice will be served within 7 days from the date of issuing order of no confidence meeting. Respondent No.5 complained before the respondent No.3 on 5-9-2003 and an order has been passed for no confidence motion proceeding under Section 21 of the Panchayat Raj Adhiniyam against the petitioner on 5-9-2003 without giving opportunity for	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

no confidence motion ex-parte order was passed by the respondent No.3. The order passed by the respondent No.3 is bad, contrary to law and illegal on the grounds mentioned in the writ petition.

The respondent No.3 without conducting the preliminary enquiry had allowed the complaint filed by the respondents 5 and 6. The respondent No.3 without recording the evidence of petitioner had allowed the complaint filed by the complainant against the petitioner and ordered to issue show cause notice under Section 21 of Chhattisgarh Panchayat Raj Adhiniyam.

I have heard the learned counsel for the petitioner.

The learned counsel for the petitioner submitted that as per the rule 3 of Gram Panchayat Ke Sarpanch.....Avishwas Prastav) Niyam, 1994, a notice has been signed by the Secretary and the Secretary is not authorized to sign show-cause notice. He further submitted that the petitioner already made a complaint against the Secretary, Annexure-P/2, therefore, this is malafide action on behalf if the Secretary.

Rule-3 envisages that any member of Gram Panchayat, desiring to move a motion of no confidence against the Sarpanch or Up-Sarpanch of a Gram Panchayat shall give a notice thereof to the prescribed authority in the form appended to these rules. If the notice is given by more than one member the motion may be moved by any of them signing the notice.

Sub-rule (2) of rule (3) prescribes that the prescribed authority, on receiving the notice under sub-rule (1) shall sign thereon a certificate

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stating the date on which hour and at which the notice has been given to him and shall acknowledge its receipt.

Sub-rule(3) of rule 3 further lays down that on receiving the notice under sub-rule (1) the prescribed authority shall satisfy himself about the admissibility of the notice. On being thus satisfied, he shall fix the date, time and place for the meeting of the Gram Panchayat which shall not be more than fifteen days from the date of receipt of the said notice. The notice of such meeting specifying the date, time and place thereof shall be caused to be despatched by him through the Secretary of the Gram Panchayat to every member of the Panchayat concerned seven days before the meeting.

Therefore, in view of the provisions of sub-rule (3) of rule 3 the Secretary is entitled to sign the notice on behalf of the prescribed authority and it also lays down that the notice must contain the date, time and place of the meeting and it should not be later than 15 days but it should be within 15 days.

A perusal of the notice Annexure-P/1shows that it was issued on 5-9-2003 and meeting for no confidence motion has been fixed for 16-9-2003, therefore, it is within 15 days. The time is fixed at 11 a.m. and the place has been fixed as the premises of Gram Panchayat building, therefore, it satisfies all the requirements as per rule 3 of the Niyam, 1994 and the Secretary has signed on behalf of the prescribed authority as per the

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

provisions of rule3, therefore, I do not find any illegality or infirmity in the said show cause notice.

There is no substance in this petition and the same is liable to be dismissed and it is dismissed.

Sd/-
L.C. Bhadoo
Judge

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